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in a passenger conveyance using steam, cable, or electricity as the motive power, the amount to be paid shall be double the sum above specified." *Held*, Thayer, J., dissenting, that these words do not apply to one riding on the platform of a railway car.

Fidelity Insurance—Construction of Contract.—*American Surety Co. v. Pauly*, 18 Sup. Ct. Rep. 552. A contract of fidelity insurance contained a clause providing that the company should be notified of any act on the part of the employe whose fidelity was insured which might involve a loss for which the company would be responsible "as soon as practicable after the occurrence of such act shall come to the knowledge of the employer." *Held*, that this did not require notice on mere suspicion, but that when the employer had knowledge of such facts as would justify a careful and prudent man in charging another with fraud and dishonesty, the fidelity company should be notified.

Insurance by Life Tenant—Resulting Trust.—*Spalding v. Miller*, 45 S. W. (Ky.) 462. A life tenant of buildings had them insured for their full value in fee simple. On loss the insurance company paid him the full amount. *Held*, that in the absence of evidence of an intention on the part of the life tenant to insure for the benefit of the remainder men, the insurance money was not subject to a resulting trust in their favor for their share in the value of the buildings.

CONSTITUTIONAL LAW.

County Officers—Power of Appointment.—*State ex rel. Williams et al., v. Mayhew et al.*, 52 Pac. Rep. (Mont.) 981. The constitution of the State of Montana provided generally for the election or appointment of county officers. In an action of *quo warranto* to test the validity of the appointment of such officers chosen by the Legislature to serve provisionally in a newly-created county, it was *held* that although the constitution provided for such selection, yet the Legislature, having the power to create new counties, of necessity had the power to carry them into effect. A county cannot be said to be created by the sovereign power until it is endowed with the power and means to aid in these important matters of the State (see *People v. Hurlburt*, 24 Mich. 44).

Right to Vote.—*Williams v. State of Mississippi*, 18 Sup. Ct. Rep. 583. A provision in a constitution and laws made thereunder are not void as in contravention of the Fourteenth Amendment merely because aimed at the characteristics of the race. For members of other races would be equally debarred by the possession of these characteristics. Although a law, fair on its face and impartial in appearance, may be within the constitutional provision if administered by public authority with an evil eye and unequal hand so as to make unjust and illegal discriminations between persons of different races, yet this maladministration must be shown as a fact. The mere possibility or probability thereof is not enough.

Inheritance Tax—Class Legislation.—*Magoun v. Illinois Trust and Savings Bank*, 18 Sup. Ct. Rep. 594. "An inheritance tax is not one on succession. The right to take property by devise or descent is the creature of the law, and the law may therefore impose conditions upon it." It is a privi-

lege—not a natural right. A State may distinguish, select and classify objects of legislation, and must necessarily have a wide range of discretion. The Fourteenth Amendment requires only that the law shall operate equally and uniformly upon all members of the class. It must appear not only that a classification has been made, but that it is reasonable and is based on some difference that bears a just and proper relation to the attempted classification and is not merely arbitrary. The Illinois inheritance tax law is valid. Though the classification in accordance with which the tax varies is more or less arbitrary, yet it is based on reasonable grounds and does not deny the equal protection of the laws.

Ex-post Facto Law—Jury Trial.—*Thompson v. State of Utah*, 18 Sup. Ct. Rep. 620. It is *ex-post facto* legislation to make a jury in a criminal case consist of only eight jurors instead of twelve when the crime was committed before the act was passed. When provision was made in the United States Constitution for trial by jury in criminal cases, it was intended that the jury should consist of twelve men. This was binding on territories. Hence a State cannot legally convict a man on verdict of eight jurors when his crime was committed before the admission of the Territory as a State.

LIBEL.

Libel per se—Malice.—*Cady v. Brooklyn Union Pub. Co.*, 51 N. Y. Supp. 198. A false publication of a practising dentist that he had committed suicide is libellous *per se* both as it touches him in his profession and as it is calculated to bring him into general ridicule. Malice need not be shown except in case of words qualifiedly privileged. It never is an essential ingredient in the action for damages for an ordinary slander or libel. It has to do only with the question of smart money.

Matter Libelous per se.—*McFadden v. Morning Journal Ass'n*, 51 N. Y. Supp. 275. Defendant published an article concerning plaintiff, a young lady, describing an alleged rowing race between her and another young lady as "a race for a beau with a handsome face." Names were given and the young man was described as being present, while "fair feminine friends" "encouraged each earnest, anxious aspirant." *Held* that the article was libellous *per se*, as its effect was to bring plaintiff into contempt and ridicule.

PROCEDURE.

Action for Rent—Estoppel of Tenant—Real Party in Interest.—*Melcher v. Kreiser*, 51 N. Y. Supp. 249. Plaintiff made a lease with the defendant, lessee, describing himself "as attorney and agent for the owner, lessor." *Held*, that lessee was estopped to deny the existence of the relation of landlord and tenant between himself and plaintiff, as attorney. *Held*, further, that under the code the plaintiff and not those for whom he might have been agent was the proper person to sue, since he was the only party of the first part thereto, and were this not so he might have maintained the action since a contract had been made in his name for the benefit of another, and he became thereby the trustee of an express trust.